



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,643	06/25/2003	C. David Shook	8142	2758
67886	7590	11/27/2007		
WOODLING, KROST AND RUST 9213 CHILLICOTHE ROAD KIRTLAND, OH 44094			EXAMINER NGUYEN, CAMTU TRAN	
			ART UNIT	PAPER NUMBER
			3772	
			MAIL DATE	DELIVERY MODE
			11/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/603,643

Applicant(s)

SHOOK ET AL.

Examiner

Camtu T. Nguyen

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Appeal Brief & After Final Amendment

This Office Action is responding to applicant's Appeal Brief & After Final amendment filed on 9/14/2007.

The After Final amendment has been entered.

Applicant's comments pertaining to the references applied in Final Action are acknowledged. Thus, the Final Action mailed out on 7/31/2007 has been withdrawn but the claims, as amended, have been carefully considered but deemed not allowable in view of the following rejection.

Drawings

The drawing of Figure 7 is objected to because it is very difficult to visualize how the pocket (708) is formed and extending 360 degrees around the stocking (400), according to applicant's description of Figures 4 & 7 on page 7 lines 11-14. Where is this sleeve (708) located on the stocking (400) in Figure 4?

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the folded portion, recited in claims 5 & 6, and as described in the specification on page 8 lines 9 & 17. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing

Art Unit: 3772

sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-6, 9-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814) and further in view of Sabin et al (U.S. Patent No. 5,984,953). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including the sock (400) having a chamber (450) for receiving the heater pack (30) but does not teach a moldable gel pad. Sabin et al discloses a

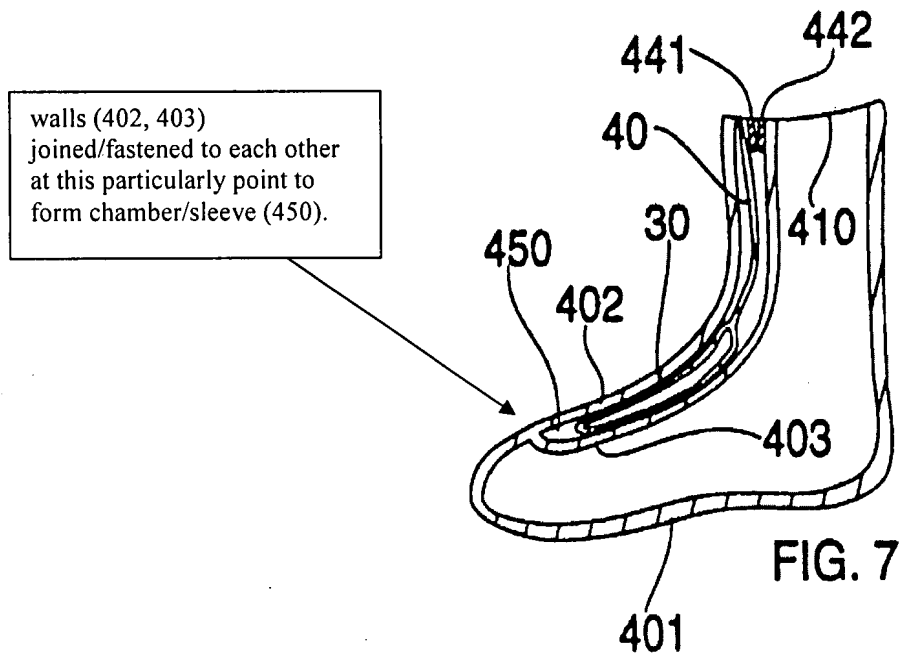
Art Unit: 3772

well-known heat pack which relates to a self-heating thermal heat pack provided with a gel (column 10 lines 28-30), thus, the heat pack, inherently, is “moldable”. Therefore it would have been obvious to one skilled in the art during the time of the invention to use the Sabin et al’s moldable gel pack instead as such would conform to the user’s foot, ankle, and leg.

With regards claims 3, 9, & 16, reciting the compression stocking and the understocking, respectively, it is not unreasonable to interpret these elements in the claims given their broadest reasonable interpretation consistent with the supporting description. According to applicant’s disclosure on page 8 lines 6-8, the Gold’s sock (400) as illustrated in Figure 7 having an upper outer wall (402), a lower outer wall (401), and an inner chamber wall (403) can be easily meet applicant’s compression stocking and understocking wherein the Gold’s upper outer wall (402) fits over the inner chamber wall (403) and secures the inner chamber wall (403) and the heater pack (30) to the user’s or patient’s body.

The Gold device would be capable of performing the method of treating a patient having venous insufficient via Gold’s sock using Sabin et al’s gel pack.

With regards to claims 5, 6, and 13 reciting the folded portion, the Gold’s sock (400) at the upper end is foldable over itself, which is consistent with applicant’s specification on page 8 lines 8-9 & 15-17. With regards to the stitched portion to form the sleeve, as recited in these claims, the Gold’s chamber/sleeve (450) is formed by the inner wall (403) fastening with the outer wall (402) by a means of fastening to form the chamber/sleeve (450) but does not suggest how the walls (402, 403) are joined, one skilled in the art would have recognized stitching as one of the ways to fastening one end/edge of inner wall (403) to the outer wall (402) to form the chamber/sleeve (450) without changing the scope of the invention. See explanation to Figure 7.



Claim 1-6, 9-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814) and further in view of Beisang, III et al (U.S. Patent No. 4,596,250). Gold discloses in Figures 6 and 7 a sock (400) with attached heater pack (34) comprising elements as recited in these claims including the sock (400) having a chamber (450) for receiving the heater pack (30) but does not teach a moldable gel pad. Beisang, III et al discloses a moldable cooling/heating device. Therefore it would have been obvious to one skilled in the art during the time of the invention to use the Beisang, III et al instead as such would conform to the user's foot, ankle, and leg, thus, in order to uniformly apply pressure thereto.

With regards claims 3, 9, & 16, reciting the compression stocking and the understocking, respectively, it is not unreasonable to interpret these elements in the claims given their broadest reasonable interpretation consistent with the supporting description. According to applicant's disclosure on page 8 lines 6-8, the Gold's sock (400) as illustrated in Figure 7 having an upper outer wall (402), a lower outer wall (401), and an inner chamber wall (403) can be easily meet applicant's compression stocking and understocking wherein the Gold's upper outer wall (402) fits over the inner chamber wall (403) and secures the inner chamber wall (403) and the heater pack (30) to the user's or patient's body. The Gold device would be capable of performing the method of treating a patient having venous insufficient via Gold's sock using Sabin et al's gel pack.

With regards to claims 5, 6, and 13 reciting the folded portion, the Gold's sock (400) at the upper end is foldable over itself, which is consistent with applicant's specification on page 8 lines 8-9 & 15-17. With regards to the stitched portion to form the sleeve as recited in these claims, see the above rejection related to the stitched portion.

Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814), modified by Sabin, et al (U.S. Patent No. 5,984,953), and further in view of Knox (U.S. Patent No. 5,814,003). Gold, as modified by Sabin et al, presented above, discloses in Figures 6 and 7 a sock (400) comprising a chamber/sleeve (450) receiving a moldable gel pack but does not suggest the chamber/sleeve (450) extend 360 degrees within the sock (400). Knox et al discloses in Figures 1 & 2 a stocking (10) comprising a pocket (16) extending continuously around the entire circumference of the stocking (10), see column 4 lines 56-61. Therefore, one skilled in the art during the time of the invention would have been

Art Unit: 3772

motivated to modify the Gold's chamber/sleeve (450) to extend 360 degrees within the stocking (400), as taught by Knox et al for the purpose of positioning the moldable gel pad virtually at any location about the user's limb.

Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (U.S. Patent No. 5,187,814), modified by Beisang, III et al (U.S. Patent No. 4,596,250), and further in view of Knox (U.S. Patent No. 5,814,003). Gold, as modified by Beisang, III et al, presented above, discloses in Figures 6 and 7 a sock (400) comprising a chamber/sleeve (450) receiving a moldable gel pack but does not suggest the chamber/sleeve (450) extend 360 degrees within the sock (400). Knox et al discloses in Figures 1 & 2 a stocking (10) comprising a pocket (16) extending continuously around the entire circumference of the stocking (10), see column 4 lines 56-61. Therefore, one skilled in the art during the time of the invention would have been motivated to modify the Gold's chamber/sleeve (450) to extend 360 degrees within the stocking (400), as taught by Knox et al for the purpose of positioning the moldable gel pad virtually at any location about the user's limb


Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3772

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Camtu Nguyen
November 15, 2007


PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
11/26/07